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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
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11 BRYAN MICHAEL FERGASON,

12 Petitioner,

13 v.

14 BRIAN WILLIAMSON, et al.,

15 Respondents.
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Case No. 2:19-cv-00946-GMN-BNW

ORDER

17 Petitioner having filed an unopposed motion for extension of time (first request) (ECF No.
18 11), and good cause appearing;

19 IT THEREFORE IS ORDERED that petitioner's unopposed motion for extension of time
20 (first request) (ECF No. 11) is **GRANTED**. Petitioner will have up to and including December
21 19, 2019, to file a first amended petition.

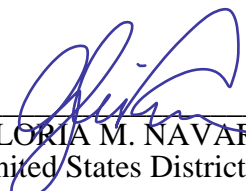
22 IT FURTHER IS ORDERED that respondents shall file a response to the amended
23 petition, including potentially by motion to dismiss, within sixty (60) days of service of an
24 amended petition and that petitioner may file a reply within thirty (30) days of service of an
25 answer. The response and reply time to any motion filed by either party, including a motion filed
26 in lieu of a pleading, shall be governed instead by Local Rule LR 7-2(b).

27 IT FURTHER IS ORDERED that any procedural defenses raised by respondents to the
28 counseled amended petition shall be raised together in a single consolidated motion to dismiss. In

1 other words, the court does not wish to address any procedural defenses raised herein either in
2 serial fashion in multiple successive motions to dismiss or embedded in the answer. Procedural
3 defenses omitted from such motion to dismiss will be subject to potential waiver. Respondents
4 shall not file a response in this case that consolidates their procedural defenses, if any, with their
5 response on the merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims
6 clearly lacking merit. If respondents do seek dismissal of unexhausted claims under § 2254(b)(2):
7 (a) they shall do so within the single motion to dismiss not in the answer; and (b) they shall
8 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set forth in
9 Cassett v. Stewart, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses,
10 including exhaustion, shall be included with the merits in an answer. All procedural defenses,
11 including exhaustion, instead must be raised by motion to dismiss.

12 IT FURTHER IS ORDERED that, in any answer filed on the merits, respondents shall
13 specifically cite to and address the applicable state court written decision and state court record
14 materials, if any, regarding each claim within the response as to that claim.

15 DATED: November 6, 2019

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18 GLORIA M. NAVARRO
19 United States District Judge
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